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**RE GERALD GIAM SENG TECK,
EX P PRIME CREDIT LEASING SDN BHD**

HIGH COURT MALAYA, SHAH ALAM
LOW HOP BING J

b

[BANKRUPTCY NO: 29-1549-1996]
15 NOVEMBER 1999

c

BANKRUPTCY: Notice - Application to set aside - Allegation that amount claimed exceeded amount actually owed - No notice of dispute pursuant to proviso (ii) of s. 3(2) Bankruptcy Act 1967 given - Application to set aside made four months later - Effect of failure to serve such notice of dispute

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This was an appeal by the judgment debtor against the decision of the deputy registrar dismissing his application to set aside the bankruptcy notice issued against him.

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At the hearing before the deputy registrar, the judgment creditor raised the preliminary objection that the bankruptcy notice shall not be invalidated by reason only that the sum specified therein as the amount due exceeded the amount actually due, since the judgment debtor had failed to give notice pursuant to proviso (ii) of s. 3(2) of the Bankruptcy Act 1967 ('the Act') to dispute the validity of the said bankruptcy notice on the ground of such mistake.

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The preliminary objection was upheld by the deputy registrar. The present appeal concerned a question of law *ie* whether the judgment debtor had complied with the requirement of proviso (ii) to s. 3(2) of the Act.

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It was contended by the judgment debtor that the deputy registrar had failed to consider the following issues: (a) whether the earlier bankruptcy notice filed by the judgment creditor was still subsisting, and if it was, whether the issue of the present bankruptcy notice constituted an oppression on the judgment debtor; (b) whether the judgment debtor was required to send a notice pursuant to proviso (ii) to s. 3(2) of the Act as he was not aware of the bankruptcy notice until long after the same was advertised by way of substituted service; and (iii) whether proviso (ii) to s. 3(2) of the Act was applicable as the judgment creditor had issued a bankruptcy notice for a sum which was not due.

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Held:

- [1] The earlier bankruptcy notice had been struck out by the court due to the solicitor's absence and thereafter the present bankruptcy notice was filed. The present bankruptcy notice was a fresh proceeding which was distinct and separate from the earlier bankruptcy notice which has been struck out. There was therefore no question of any oppression as there was now merely one bankruptcy notice for consideration by the court. a
- [2] The judgment debtor could dispute the validity of the bankruptcy notice but he must do so by complying with the time frame (*ie* seven days) allowed for payment of the amount in the bankruptcy notice as provided for in proviso (ii) to s. 3(2) of the Act. b
- [3] The judgment debtor had not within the seven days specified in the bankruptcy notice disputed the sum specified therein. This meant that the judgment debtor has abandoned his right to dispute the validity of the bankruptcy notice. c
- [4] The judgment debtor having failed to give the requisite notice of dispute within seven days of the substituted service of the bankruptcy notice, the bankruptcy notice shall not be invalidated. In order to dispute the validity of the bankruptcy notice, it was incumbent on the judgment debtor to serve on the judgment creditor a notice of dispute on or before the expiry of the seven days period as prescribed in proviso (ii) to s. 3(2) of the Act. d

[Appeal dismissed with costs.]

Case(s) referred to:

- Chinn Swee Onn v. Puchong Realty Sdn Bhd* [1990] 1 CLJ 28 (**dist**)
- Development & Commercial Bank Bhd v. Datuk Ong Kian Seng* [1995] 3 CLJ 307 (**refd**)
- Fawiza Osman v. Bank Bumiputra Malaysia Bhd & Another Appeal* [1991] 1 CLJ 652 (**dist**) e
- Low Mun v. Chung Khiaw Bank Ltd* [1998] 1 MLJ 263 (**dist**) f
- OCBC Bank (M) Bhd v. Sethu Ambalagara Thevar* [1998] 3 CLJ 563 (**dist**)
- Re Arunachalam, ex p Indian Overseas Bank Ltd* [1968] 1 MLJ 89 (**refd**)
- Re Dato' Loh Fook Yen, ex p Malayan United Finance Bhd* [1989] 1 CLJ 187 (**refd**)
- Re Kho Kak Siew, ex p Mui Bank Bhd* [1993] 2 CLJ 106 (**refd**) g
- Re Khor Suan Yee, ex p United Overseas Bank (M) Bhd* (High Court, Shah Alam; Bankruptcy No 29-1407-96) (**dist**) h
- Re Ngan Ching Wen, ex p Moscow Narodny Bank Ltd* [1996] 2 CLJ 943 (**dist**) i

a Legislation referred to:

Bankruptcy Act 1967, s. 3(1)(i), 3(2) proviso (ii)

Bankruptcy Rules 1969, rr. 91, 117

Limitation Act 1953, s. 6(3)

For the judgment creditor - Ho Kong How; M/s CK Lee & Assoc

b *For the judgment debtor - Ong Gek Lin; M/s Yee Teck Fah & Co*

Reported by Ling Hea Hoon

JUDGMENT

Low Hop Bing J:

c Appeal

This is an appeal by the judgment debtor by way of a notice of appeal to judge in chambers dated 13 November 1998 in encl. (28) against the decision of the learned deputy registrar given on 11 November 1998 dismissing the application by the judgment debtor by way of a summons in chambers dated 16 March 1998 in encl. (17) to set aside the bankruptcy notice dated 7 June 1996.

e At the hearing before the learned deputy registrar, learned counsel for the judgment creditor, Encik Ho Kong How, raised a preliminary objection on the ground that the bankruptcy notice shall not be invalidated by reason only that the sum specified in the bankruptcy notice as the amount due exceeds the amount actually due, since the judgment debtor has failed to give notice within the time allowed for payment (ie, seven days) to dispute the validity of the bankruptcy notice on the ground of such mistake, as provided in proviso (ii) to s. 3(2) of the Bankruptcy Act 1967. For the sake of brevity, a reference to the number of a section in this judgment shall be a reference to that section in the Bankruptcy Act 1967. The parties herein shall be referred to as judgment creditor and judgment debtor respectively.

g The learned deputy registrar upheld the preliminary objection and proceeded to dismiss encl. (17) with costs. The appeal before me revolves around the question of law ie, whether the judgment debtor has complied with the requirement of the proviso (ii) to s. 3(2).

h Submissions For The Judgment Debtor

i Before me, Cik Ong Gek Lin, learned counsel for the judgment debtor, submitted that the learned deputy registrar was wrong in dismissing encl. (17) solely on the preliminary objection of the judgment creditor. In doing so, the learned deputy registrar was said to have failed to appreciate that bankruptcy proceedings have harsh and penal consequences and therefore ought to be considered carefully.

It was further contended for the judgment debtor that the learned deputy registrar has failed to consider: **a**

- (1) whether the earlier bankruptcy notice filed by the judgment creditor is still subsisting, and if it is still subsisting, whether the issue of the present bankruptcy notice constitutes an oppression on the judgment debtor; **b**
- (2) whether the judgment debtor is required to send a notice pursuant to proviso (ii) to s. 3(2) as he was not aware of the bankruptcy notice until long after the same was advertised by way of substituted service; and
- (3) whether proviso (ii) to s. 3(2) is applicable where the judgment creditor has issued a bankruptcy notice for a sum which is not due. **c**

Contention For Judgment Creditor

Learned counsel for the judgment creditor relied on the same submission which he had made before the learned deputy registrar, citing in support thereof the cases of *Re Dato' Loh Fook Yen, ex p Malayan United Finance Bhd* [1989] 1 CLJ 187; [1988] 3 MLJ 499; *Re Kho Kak Siew, ex p Mui Bank Bhd* [1993] 2 CLJ 106; [1993] 1 MLJ 208; *Re Arunachalam, ex p Indian Overseas Bank Ltd* [1968] 1 MLJ 89; and *Development & Commercial Bank Bhd v. Datuk Ong Kian Seng* [1995] 3 CLJ 307; [1995] 2 MLJ 724. **d**
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As regards the issue of the earlier bankruptcy notice, it was stated for the judgment creditor that that bankruptcy notice has been struck out by the court on the ground of the solicitor's absence and thereafter the present bankruptcy notice was filed. It is, in the view of the learned counsel for the judgment creditor, not an act of oppression at all. **f**

Decision Of The Court

Undisputed Facts

The facts are substantially not disputed. The bankruptcy notice in question was served on the judgment debtor by way of substituted service pursuant to an order of the court dated 9 September 1997 which was effected on 29 October 1997. Pursuant to the said order for substituted service, the bankruptcy notice shall be deemed to have been served 14 days after the substituted service has been effected. In the circumstances, the bankruptcy notice shall be deemed to have been served on the judgment debtor on 13 November 1997. The validity of the bankruptcy notice has not been disputed by judgment debtor until 16 March 1998 by way of summons in chambers *vide* encl. (17) ie, some four months after the substituted service. The dispute now raised for the judgment debtor relates to the amount of the debt specified in the bankruptcy notice. **g**
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- a* For the sake of completeness, the particulars of claim in the bankruptcy notice are reproduced as follows:

PARTICULARS OF CLAIM

<i>b</i>	Judgment sum	RM42,734.83
	Interest on RM35,354.00 at the rate of 24% per annum from 6.11.1992 to 7.6.1996 (1310 days)	RM30,452.87
	Costs of action	RM 1,043.00
<i>c</i>		-----
		RM74,230.70
	Less payment made to account	RM10,537.00

		RM63,693.70
<i>d</i>		=====

Oppression

- e* On the facts of the case, the issue of oppression raised by the judgment debtor's learned counsel, supposedly on the existence two concurrent bankruptcy notices, does not seem to be of any assistance to the judgment debtor at all. It is not disputed that the earlier bankruptcy notice dated 1 July 1994 has been struck out by the court due to the absence of solicitors and so it has long been consigned to oblivion. That being the case, it was no longer subsisting. It became necessary to file the present bankruptcy notice, which the judgment debtor now seeks to set aside.

- f* The present bankruptcy notice is in my view a fresh proceeding which is distinct and separate from the earlier bankruptcy notice which has been struck out. There is therefore no question of any oppression as there is now merely one bankruptcy notice for consideration by the court.

g **Validity Of Bankruptcy Notice**

- h* Section 3(2) of the Bankruptcy Act 1967 says that a bankruptcy notice under this Act shall be in the prescribed form and shall state the consequences of non-compliance therewith and shall be served in the prescribed manner. Rule 91 of the Bankruptcy Rules 1969 says that a bankruptcy notice shall be issued by the court in which a bankruptcy petition against a judgment debtor may subsequently be filed. Rule 91 also prescribes the form of bankruptcy notice ie, in Form 5 in the appendix to the rules. The content in Form 5 gives notice to a judgment debtor that
- i* within seven days after service of the notice on him, he has to pay the

sum claimed by the judgment creditor being the amount due on a final judgment obtained by the judgment creditor against the judgment debtor in the court specified therein. After perusing the content of the bankruptcy notice here, I am of the view that it has complied with r. 91, as it expressly requires the judgment debtor to comply with the payment within seven days of service of the bankruptcy notice. There was also an endorsement that the consequences of not complying with the requisitions of the notice ie, satisfaction of the sum stated in the notice, are that the judgment debtor will have committed an act of bankruptcy. The judgment debtor may dispute the validity of the bankruptcy notice but he must do so by complying with the time frame (ie, seven days) allowed for payment of the amount in the bankruptcy notice. This is clearly provided for in proviso (ii) to s. 3(2), where the relevant provision reads as follows:

Provided that a bankruptcy notice –

- (ii) shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such mistake; ...

In the instant case, the judgment debtor has not, within the seven days specified in the bankruptcy notice, disputed the sum specified therein. This means that the judgment debtor has abandoned his right to dispute the validity of the bankruptcy notice. Even for a delay of one day, in giving the notice of dispute on the 8th day instead of the 7th day, LC Vohrah, J in *Re Dato' Loh Fook Yen Ex parte Malayan United Finance Bhd* [1988] 3 MLJ 499 at p. 500, said:

I accordingly hold that the notice of dispute by way of the said affidavit has not complied with proviso (ii) to s. 3(2) of the Bankruptcy Act, having been delivered eight days after the service of the bankruptcy notice, i.e. outside the time allowed for payment. The bankruptcy notice therefore cannot be challenged as to the sum specified therein. In the result, the bankruptcy notice must be allowed to stand and the second declaratory prayer by virtue of s. 3(1)(i) would appear to be misconceived. The application in its present attenuated form has therefore to be dismissed with costs.

In *Re Kho Kak Siew, Ex parte Mui Bank Bhd* [1993] MLJ 208 at p. 212, Haidar J held that where there has been no appeal in respect of a judgment and bankruptcy notice was issued in accordance with the judgment obtained against the debtor, but the notice of dispute was not given, the bankruptcy notice shall not be invalidated. This judicial pronouncement followed the decision of Chang Min Tat J (later FJ) in *Re Arunachalam, Ex parte Indian Overseas Bank Ltd* [1968] 1 MLJ 89, 90, in the passage which is now reproduced below:

- a* On the authorities, it seems to me reasonably clear that where an excess is claimed in the bankruptcy notice and no such notice of dispute of the validity of the notice by reason of such excess is given, then the bankruptcy notice is not invalid by reason of the excess.
- b* Again in *Development & Commercial Bank Bhd v. Datuk Ong Kian Seng* [1995] 2 MLJ 724 at p. 733 Mohamed Dzaiddin FCJ, in delivering the judgment of the Federal Court held, *inter alia*, as follows:
- c* Moreover, what is patently clear to us is that on the facts, the respondent cannot be allowed to dispute the validity of the bankruptcy notice on the ground on which he now relies because the notice of dispute by way of his affidavit affirmed on 18 February 1992 has not complied with proviso (ii) to s. 3(2) of the Act, it having been served on the appellant about seven months after the service of the bankruptcy notice on him (the respondent). The bankruptcy notice cannot therefore be challenged as to the interest specified therein.
- d* In the light of the above authorities, it is my view that the judgment debtor having failed to give the requisite notice of dispute within seven days of the substituted service of the bankruptcy notice, which was on 13 November 1997, the bankruptcy notice shall not be invalidated. In order to dispute the validity of the bankruptcy notice, it is incumbent on the judgment debtor to serve on the judgment creditor a notice of dispute on or before 20 November 1997, but as stated above, the summons in chambers in encl. (17) was only filed on 16 March 1998 which is some four months later, which was far beyond the time frame prescribed in proviso (ii) to s. 3(2).
- e*
- f* **Merits Of The Appeal**
- Although the learned deputy registrar dealt with the preliminary objection only, without looking at the merits of the matter herein, nevertheless since this appeal is by way of a re-hearing, I shall proceed to hear this matter on its merits. On the merits of this appeal, it is to be observed that the affidavits filed by the judgment debtor had made no attempt whatsoever to show which part of the "Particulars of Claim" in the bankruptcy notice exceeds the amount actually due. There was no allegation by the judgment debtor that he has a counterclaim, set-off or cross-demand against the judgment creditor. The amount of RM10,537 paid to account has been deducted from the sum total which was stated in the bankruptcy notice.
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- h* In fact, the judgment debtor in his affidavit in support in encl. (16) para. 7 conceded, *inter alia*, as follows:
- i* Mungkin terdapat pembayaran-pembayaran lain yang dibuat oleh penghutang-penghutang penghakiman lain kepada Pemiutang Penghakiman yang pada masa kini tidak diketahui oleh saya, tetapi jika didapati, saya akan menuntut faedah darinya.

[Translation:

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Possibly there are other payments which were made by other judgment debtors to the Judgment Creditor which at the present moment are not known by me, but if so, I shall claim the benefit therefrom.].

It is obvious to me that the judgment debtor is merely embarking on a fishing expedition without any concrete basis to dispute the amount actually due or for that matter the excess thereof, if any.

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It was further contended for the judgment debtor that the bankruptcy notice is defective as it is for a sum which is not due and so the judgment debtor has not committed any act of bankruptcy, under s. 3(1)(i). However, in my judgment, it is to be noted that there was no dispute by the judgment debtor that the judgment creditor has on 20 May 1993 obtained judgment against him in the sum of RM42,734.83 together with interest on the balance ie, RM35,354 at 24% per annum from 6 November 1992 to the date of full realisation and costs of RM1,043. These particulars have been fully, accurately and correctly reflected in the bankruptcy notice. That was a final judgment. There was no appeal therefrom, and execution has not been stayed. The judgment debtor has failed to pay the judgment debt in accordance with the terms of the judgment and interest quantified in the bankruptcy notice within the seven days specified therein. I am unable to see how the judgment debtor can successfully rely on s. 3(1)(i) to set aside or dispute the validity of the bankruptcy notice in the absence of the requisite notice of dispute within the prescribed seven day time frame.

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I now proceed to analyse the authorities cited for the judgment debtor. Learned counsel for the judgment debtor looked for support in the Supreme Court decision in *Low Mun v. Chung Khiaw Bank Ltd* [1998] 1 MLJ 263, on the ground that non-compliance with the terms of the judgment renders the bankruptcy notice invalid. A careful reading of the Federal Court judgment makes it clear to me that the main issue for determination in that case is whether a bankruptcy notice for the sum of RM2,325,000 as well as for unspecified amount of interest and costs is a good notice upon which bankruptcy proceedings may be founded under s. 3(1)(i) of the Bankruptcy Act 1967.

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The bankruptcy notice in that case conspicuously did not specify the bank's base lending rate on which the interest payable should be calculated in accordance with the terms of the judgment, neither were the taxed costs quantified. Mohamed Azmi, SCJ (as he then was) in delivering the judgment of the Supreme Court held that the effect of the omission in the bankruptcy notice to quantify the amount of interest and costs due in accordance with the terms of the judgment is a relevant issue. His Lordship added as follows:

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- a* Clearly, the bankruptcy notice was bad in law as it contained demand for payment of the whole judgment debt within seven days when parts of the whole debt had not been or could not be quantified, and as such were incapable of being made the subject of execution, and consequently incapable of being complied with.
- b* The Supreme Court decision in *Low Mun v. Chung Khiaw Bank Ltd, supra*, be it noted, did not refer to proviso (ii) of s. 3(2) and it is therefore no authority on the effect of this proviso. Besides, the facts in the Federal Court decision are clearly distinguishable from those before me in that the bankruptcy notice in *Low Mun, supra*, had demanded payment for
- c* **unspecified sums**, whereas in the bankruptcy notice before me the amount actually due had been specifically quantified, calculated and ascertained in the “Particulars of Claim”.

- Fawiza bte Osman v. Bank Bumiputra Malaysia Bhd & Another Appeal* [1991] 1 CLJ 652; [1991] 1 MLJ 426 was also relied upon by the judgment
- d* debtor in support of the submission that the bankruptcy notices were *void ab initio* where the sum required to be paid were ambiguous and uncertain and non-compliance with them would not constitute an act of bankruptcy under s. 3(1)(i). In those appeals, the requirements in the bankruptcy notices for payment within seven days were for the “sum of RM612,065.07
- e* together with interest to accrue thereon at the agreed rate of 13.25% per annum as from 31 October 1984 to date of actual realization and \$300 costs”. The Supreme Court found that the respondent bank had blatantly included first, a demand for payment of interest, a portion of which was not yet due and payable as at the date of the notice, and secondly, a
- f* demand for payment of interest for a period which was uncertain and undeterminable for the purpose of quantification in accordance with the terms of the court order.

Mohamed Azmi, SCJ (delivering the judgment of the court) observed as follows:

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- h* Since the debtor is entitled to know exactly the actual sum that he has to pay to avoid the commission of the act of bankruptcy, it is essential that the notice must quantify the total sum required to be paid for the purpose of that particular bankruptcy notice. In these appeals, by leaving the amount of interest at large ‘to date of actual realization’, there is uncertainty in the actual amount due and payable which is required to be settled by the notices within seven days of service. As conceded by counsel for the respondent, at the date of their issue, no one knew if the whole interest ordered to be paid would be realized; let alone the date of actual realization. When the date of realization is questionable, and without any fixed date being supplied, the amount of interest
- i* required to be paid in the notices was equivocal and incapable of being quantified in accordance with the terms of the court order for bankruptcy purposes.

The bankruptcy notice in the case before me did clearly particularise the exact amount due and so does not suffer from any of the shortcomings or inadequacies in the bankruptcy notices in the said appeals before the Supreme Court. *a*

OCBC Bank (M) Bhd v. Sethu a/l Ambalagara Thevar [1998] 3 CLJ 563; [1998] 3 MLJ 769 is another authority cited for the judgment debtor. There, the chronology of events may be stated as follows: *b*

Date	Event	
5 August 1993	Judgment debtor owed judgment creditor the sum of RM55,211.37. Bankruptcy notice for the said judgment sum was taken and served on the judgment debtor.	<i>c</i>
Two years later ie, in 1995	The creditor's petition was heard by the senior assistant registrar. The judgment debtor tendered two banker's drafts for the said sum of RM55,211.37, which was the sum stated in the bankruptcy notice. Petitioning creditor refused to accept the banker's drafts, as the amount of the debt due under the bankruptcy notice had been inflated due to non-payment of interest and as such the amount due on the date when the banker's drafts were tendered was RM99,797.89.	<i>d</i> <i>e</i>

Mokhtar Sidin JCA (delivering the judgment of the Court of Appeal) agreed with the decision of both the learned senior assistant registrar and the learned judge in dismissing the creditor's petition, although the Court of Appeal did so on a different ground ie, that when the judgment debtor tendered the two bank drafts for the full amount in the bankruptcy notice, he had done the obligations imposed upon him by the bankruptcy notice and the Bankruptcy Act. *f*

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In the case before me, the judgment debtor had made no payment whatsoever towards the amount due as stated in the bankruptcy notice in question, while at the same time he disputed the amount due without complying with the seven day time frame allowed for raising such a dispute. *h*

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- a* *Re Ngan Ching Wen Ex parte Moscow Narodny Bank Ltd* [1996] 2 CLJ 943 was relied on by learned counsel for the judgment debtor to support the contention that the judgment debtor is entitled to be heard on the claim that there is no money actually due to the petitioning creditor because payment has been made before the petition was filed. In that case, the
- b* debtor had filed a “notice by debtor of an intention to oppose petition” in Form 16 under r. 117 of the Bankruptcy Rules 1969 coupled with an affidavit where he sets out his contention of accord and satisfaction of the judgment sum by his payment to the petitioning creditors as full and final settlement. James Foong, J held, *inter alia*, that by filing this notice to
- c* oppose petition, the debtor certainly has the right to be heard on the petition. The bankruptcy notice as well as the petition in that case contained a set of particulars which undoubtedly represented a running account, where payments made by the debtor were credited to reduce an outstanding sum at the material time which included both principal and interest, but yet not
- d* fully settling the particular amount then outstanding. It was the specific finding of the learned judge that the amount of interest that was statute barred under s. 6(3) of the Limitation Act 1953 has been absorbed into the whole sum claimed and has become indistinguishable by the nature of the petitioning creditor’s form of accounting. In the circumstances the creditor’s petition was unenforceable. The facts as contained in the
- e* affidavits before me did not allude to any allegation whatsoever relating to the inclusion of any interest which was statute barred.

- In an unreported judgment in *Re Khor Suan Yee, Ex parte United Overseas Bank (M) Bhd* Shah Alam High Court Bankruptcy No. 29-1407-96 dated
- f* 30 December 1997, on which the judgment debtor relied, the judgment creditor has given the actual debt due in different aggregate sums in the bankruptcy notice, creditor’s petition and creditor’s affidavit respectively and there had been attempts by the judgment creditor to correct the calculations of the various aggregate sums, thereby, in my view, rendering the creditor’s petition irregular. That being the case, the creditor’s petition
- g* was struck out with costs, but with liberty to the judgment creditor to file bankruptcy notice and subsequent bankruptcy proceedings afresh.

- In *Chinn Swee Onn v. Puchong Realty Sdn Bhd* [1990] 1 CLJ 28; [1990] 1 MLJ 108, SC, the headnote says that the respondents had obtained
- h* judgment by default of appearance against the appellant. Subsequently, the respondents had agreed to forbear to levy execution on the judgment and the respondents agreed to instruct a third party to pay the judgment debt by instalment of \$2,000 a month. The respondents had received \$10,000 from the third party. Nevertheless, they took out a bankruptcy notice
- i* against the appellant. The appellant applied to set aside the bankruptcy

notice but this application was dismissed in the High Court and later, receiving and adjudication orders were made against the appellant. The appellant appealed. *a*

In allowing the appeal, the Supreme Court held:

- (1) The respondents, having accepted the performance of the appellant's obligation to pay his debt by a third party, were precluded from enforcing the judgment against the appellant; *b*
- (2) In the circumstances, the respondents were not entitled to enforce the default judgment against the appellant. The consequential execution by way of bankruptcy notice and petition was bad and irregular. The bankruptcy notice and bankruptcy petition must therefore set aside. *c*

In the case before me, there was no forbearance on the part of the judgment creditor to levy execution on the judgment nor was there any payment by a third party to the judgment creditor. *d*

Conclusion

On the foregoing grounds, I hold that the Appeal by the judgment debtor is devoid of merits. The order by the deputy registrar is hereby affirmed and the appeal is dismissed with costs. *e*

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